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IN THE HIGH COURT OF JUDICATURE AT BILASPUR(CHHATTISGARH)

WRIT PETITION NO. 2293 /2001

PETITIONER

Smt. Vinita Rai,
W/o. Aditya Rai,
Aged about 32 years,
Assistant Teacher,
Church of Christ Primary School,
Chanduwabhata,
Tarbahar,
Bilaspur (C.G.)

Vs.

RESPONDENTS

R1. State of Chhattisgarh,
Through Secretary,
School Education Department,
Mantralaya,
D.K.S. Bhawan,
Raipur (C.G.)

R2. District Education Officer,
Bilaspur (C.G.)

R3. Church of Christ Mission in India
(Education Department),
Schools Established and Administered by a Minority Community,
Through Director,
Shri B.E. Getter,
Kududand,
Bilaspur (C.G.)

R4. Church of Christ Mission in India
Through Shri Ishwari Lal,
Mission Secretary,
Kududand,
Dist. Bilaspur (C.G.)

R5. Ishwari Lal,
S/o. Late Pyare Lal,
Aged about 68 years,
Mission Secretary,
Church of Christ Mission in India,
Kududand,
Dist. Bilaspur.

P.R. No. 2293/01
Presented by Shri A. Srivastava
dated 23/10/2001

Received Copy of T.O.A. Petition
23-10-2001
Sd/-

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR THE ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS CERTIORARI, PROHIBITION AND FOR OTHER SUITABLE WRIT OR WRITS, ORDER OR ORDERS, DIRECTION OR DIRECTIONS.

उपायुक्त, बी. के. सिंह, बिलासपुर, बिलासपुर तहसील कार्यालय

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 2293 of 2001

Petitioner: Smt. Vinita Rai

Versus

Respondents: State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Amit Verma, counsel for the petitioner.

Smt. Anju Ahuja, Deputy Government Advocate for the Respondents No.1 to 2.

Shri V.C. Ottalwar, counsel for the respondents No. 3 to 5.

ORAL ORDER

(22nd March, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. This petition impugns the transfer order dated 16.10.2001 (Annexure P/3) passed by the respondent No. 4 on the ground that the transfer order was malafide exercise of power and arbitrary.

2. According to the petitioner, the impugned transfer order was passed because the petitioner has filed the Civil Revision against the respondent No. 4, which is pending consideration in this Court. The petitioner could not point out any other reason except pendency of Civil Revision No. 494/2001 in this Court in order to allege that it was malafide exercise of power to transfer the petitioner from Church of Christ Primary School, Chanduabhata, Bilaspur to Mission Primary School, Samaniya, Surguja as Assistant Teacher.

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3. This Court, while issuing notice, granted status-quo as on 8.11.2001. Thereafter the order dated 8.11.2001 was neither varied nor modified. The petitioner continued on the same place of posting at Chanduabhata, Bilaspur till date.

4. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. The petitioner has already worked at one place for more than 5 years. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved malafide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations. In the facts and circumstances of the case, it is not necessary to examine validity of the impugned transfer order at this stage. In the facts of the case, the respondents are directed not to insist upon compliance of the impugned transfer order.

5. This petition has become infructuous with the passage of time. Accordingly the petition is dismissed as having become infructuous. However, respondents/authorities are at liberty to pass appropriate order for posting the petitioner in the public interest and administrative exigency, in accordance with law. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu